

EXPANDED DRAFT MEETING SUMMARY
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ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING
January 25, 2022

A public hearing of the Zoning Board of Adjustment was held on Tuesday, January 25, 2022 at 6:30 PM, both in person at City Hall and via Zoom.

Mariellen MacKay, Chair, asked for a Roll Call.

Mariellen MacKay, Chair
Steve Lionel, Vice Chair
Jack Currier, Clerk
JP Boucher
Rob Shaw
Jay Minkarah
Efsthathia Booras (on zoom)

Carter Falk, Deputy Planning Manager/Zoning
Kate Poirier, Zoning Coordinator

Mrs. MacKay explained the Board's procedures, saying that real-time public comment can be addressed using Zoom, or by telephone, or in person. Mrs. MacKay said that real-time comments via audio will be addressed at the conclusion of the public hearing, and the public is encouraged to submit their comments for future meetings via email to the Planning Department, which is Planningdepartment@nashuanh.gov, or by mail, at P.O. Box 2019, Nashua, NH, 03061. Mrs. MacKay identified the points of law required for applicants to address relative to variances and special exceptions. Mrs. MacKay explained how testimony will be given by applicants, those speaking in favor or in opposition to each request, as stated in the Zoning Board of Adjustment (ZBA) By-laws.

- 1. BAE Systems Information & Electronic Systems Integration, Inc., Norman Coutu (Owner) 65 Spit Brook Road (Sheet A Lot 12) requesting special exception from Land Use Code Section 190-115 to work in an "other" wetland buffer to convert an existing paved parking area - to construct a 1,350 sq.ft single-story electrical equipment building. PI & RC Zones, Ward 7.**

Voting on this case:

Mariellen MacKay, Chair
Steve Lionel, Vice Chair
Jack Currier, Clerk
JP Boucher
Rob Shaw

Brett Weigel, Sr. Project Manager, Hallam, ICS, South Burlington, VT. Mr. Weigel said that the plot plan shows a partial view of the large property where the building would be located. He said that this part of the property is what is called the neck, they tried to put new electrical infrastructure inside the existing building, but due to space constraints and Code issues, were not able to do so. He said that they're planning on building a new building dedicated for electrical infrastructure. He said that they're putting in an emergency generator.

Mr. Weigel said that they did receive approval from the Conservation Commission. He said that the new electrical building is slightly in the wetland buffer.

*** Mr. Weigel's testimony was very difficult to hear ***

Mr. Weigel stated that the building would be put on an existing paved impervious area. He said that they did their best to place it as far away as the buffer as possible. He shared his screen for the Board members.

Mr. Weigel identified the area where the new generator would go, however, it is not located in a wetland buffer.

Mr. Currier asked why the electrical equipment has to go in a separate building, if it had to do with noise, or heat.

Mr. Weigel said that they had very little square footage to work with, and they needed proper spacing of equipment. He said that was the original plan, to have everything inside the existing building, but they just didn't have the room to allow them to do so.

Mr. Weigel said that there will be no additional traffic connected to the proposed work, and it will not change the number of employees. He said that the Conservation Commission has recommended approval, they've walked the site as well, and forwarded a positive recommendation with no stipulations of

approval.

Mrs. MacKay asked if they are aware of the nine special wetland conditions.

Mr. Shaw said that they filled it out for the Conservation Commission, it's on page 5 of 6, and it's included in the package, and they've addressed them already.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:

Mr. Lionel said that he is in support of the application, they've met all the requirements, and the Conservation Commission is in support.

Mr. Currier said that the application is clear, and very detailed, and is in support.

Mr. Boucher said he is in support.

Mr. Shaw said that he is also in favor, and there is no change in the impervious surface, as the parking lot is being replaced by the building, it's a very limited impact.

Mr. Minkarah said that he is in support for the reasons already stated.

Ms. Booras said that she is in support for all the reasons stated.

Mrs. MacKay said that she is in support.

MOTION by Mr. Shaw to approve the to approve the special exception application as advertised on behalf of the applicant. He said that it is listed in the Table of Uses, Section 190-115.

Mr. Shaw stated that it will not create any undue traffic or unduly impair pedestrian safety.

Mr. Shaw stated that it will not overload public water, drainage, or sewer or other municipal systems.

Mr. Shaw stated that all special regulations are fulfilled, the nine special regulations for wetlands are met.

Mr. Shaw stated that it will not impair the integrity or be out of character with the neighborhood, or be detrimental to the health, morals or welfare of residents.

Mr. Shaw said that the Board is in receipt of the Conservation Commission's letter of support dated January 4, 2022, with no stipulations.

SECONDED by Mr. Boucher.

MOTION CARRIED UNANIMOUSLY 5-0 BY VERBAL ROLL CALL VOTE OF THE MEMBERS.

2. Shuran Chen, (Owner) 10 Worcester Street (Sheet 35 Lot 79) requesting variance from Land Use Code Section 190-16, Table 16-3, for minimum land area, 2,985 sq.ft existing - 6,970 sq.ft required - to convert a single-family house into a two-family house. RC Zone, Ward 4.

Voting on this case:

Mariellen MacKay, Chair
Steve Lionel, Vice Chair
Jack Currier, Clerk
JP Boucher
Rob Shaw

Shuran Chen, 10 Worcester Street, Nashua, NH. Ms. Chen said that she is wishing to convert a single-family home into a two-family home. She said that the neighborhood has a mix of single-family and two-family houses. She said that there won't be any architectural changes to the house. She said that the house has 2,600 square feet. She said that there are two driveways, one facing Worcester Street, and the other off of White Avenue. She said that the house is 84 years old. She said that she would upgrade the electricity. She said the house is too big for a single-family, it is a good size for two units.

*** Audio difficult to hear ***

Mr. Currier said that there are two driveways for the property, one on Worcester Street, and two cars there, and didn't see any room for a third car. He said that the second car was over the sidewalk.

Mrs. Chen said the Worcester Street driveway can hold two cars. She said the White Avenue driveway holds two cars, but also has a garage.

Mr. Currier asked about White Avenue, he said that he saw one car in the driveway and that was it, no room for another.

Mrs. Chen said three, two cars can go in the driveway, and there is room in the garage.

Mr. Currier said that there was a truck parked on the corner, and found it quite dangerous, and had trouble pulling out to White Avenue to Worcester, as the truck was right on the corner. He said that driveways need to be placed 50 feet back for safety, and this truck was blocking two sidewalks, and blocking the view. He asked if that was a parking space.

Mrs. Chen said that tenant has a car too, and thought that the truck was not working.

Mr. Minkarah asked what the parking requirements are.

Mr. Falk said two spaces per unit, so they need four.

Mrs. MacKay asked if parking on a sidewalk or lawn permissible.

Mr. Falk said that sidewalks are for pedestrians, and you're not supposed to park on lawns either.

Mr. Boucher asked about the parking for the White Avenue side, if that tenant has use of the garage.

Mrs. Chen said that it is available.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

Brian Guidi, 7 Worcester Street, Nashua, NH. Mr. Guidi appeared on zoom. Mr. Guidi said that he also submitted a letter. He said he doesn't really have an issue with them converting the house. He said that his bigger issue is the current use of the property, he's lived here for 35 years, and the use has been a rooming house for many years, and thinks it's a little dishonest for the applicant to say that it is a single-family residence, and it is a rooming home. He said that he's had a hard time getting ahold of the owner.

Mr. Currier referred to the picture of the truck parked at the corner, and asked if he thought it blocked the line of sight, and asked how often it's parked there.

Mr. Guidi said it's there every day. He said that they park frequently on both sides of the street, and those streets are narrow to begin with.

Mrs. Chen said that the guy that has the truck, he's had it since last summer, and after he bought it, it was not working, so he has a car, and another car, so he has three cars.

*** difficult to hear testimony ***

Mrs. MacKay said that she heard the testimony as that the truck that parks there is from 12 Worcester, not 10 Worcester, and the request is to make it a two-family because of all the comings and goings of all different people, it would be easier to have a two-family.

Mrs. Chen agreed.

Mr. Lionel asked how many tenants are currently renting out a space in the house.

Mrs. Chen said four tenants.

Mr. Lionel asked where she lives.

Mrs. Chen said she lives in Westford Mass. She said that she wants to live here.

Ja Neng Chen said that he currently lives with his mother in

Westford Mass. He said that there are four tenants in the building.

Mr. Shaw asked if there could be a stipulation of no more parking usage of the corner of the lot area, and perhaps putting in some sort of barrier, either small rocks, or plantings, or a decorative fence, to keep parking from occurring in that area.

Mr. Chen said that they thought the guy with the truck would only have one car, but it turns out he is a car man, and has two other cars besides the truck, and he uses too many spaces.

*** audio very difficult to hear ***

Mr. Currier asked if the Board were to stipulate that there will be no parking on the corner, that would show up in a letter, and perhaps the neighbor Mr. Guidi would have a copy of it and be well aware of it, that there is a stipulation that there is no parking on the corner. He said that if that happens, the police can ticket him, so there will be enforcement there. He asked if this issue is understood, if the stipulation is made that the corner be not available for parking.

Mrs. Chen said that she understands. She said that she's asked them to move the truck.

Mr. Currier asked if the garage is available for the tenants to park in.

Mrs. Chen said yes, it is available.

Mr. Currier said that means no storage, no junk in the garage, and the garage door works, and tenants can park in it.

Mrs. Chen said yes, and will remove everything out of the garage. She said that the garage is updated.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS - REBUTTAL:

Mr. Guidi said he understands Mrs. Chen's situation, and understands that the desire is to change the home into a two-family, so that she can reside in the residence, and rent out the other unit to another family. He said that his bigger concern is to ensure that it doesn't result in another rooming home with more rooms and more opportunity for more tenants, and

the circumstances that she is pursuing is admirable and great, as long as that is the true usage, and the current usage of the rooming house changes back to a residential home with one or two units.

END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:

Mr. Currier said he's on the fence with this application. He said on one hand, there are about half the homes in the area are two-family units, but half are single-family. He said that if it were a two-family, it doesn't appear to be out of character with the neighborhood. He said that these streets are very thin, they feel more like alleyways. He said that there isn't a good track record of usage in the house, and questions if the request were granted, if the use of the property would be even more intensive, although, perhaps there would not be a greater quantity of people living there. He said that the stipulation of not parking at the corner is absolutely necessary.

Mr. Boucher said that the use would fit into the neighborhood. He said that there is no requirement for the landlord or owner to live there, if they do, it's a net benefit because there is more investment in the property. He said that there were some City inspections that were done that showed it was not used as a rooming house. He said that making it a two-family would improve that situation. He said that he takes the concerns of the abutter seriously, and the truck parking at the corner has to be remedied, and the landlord should be able to do that with the stipulation of not parking at the corner. He said that the Board asked for that same stipulation at the corner of Vine and Nevada. He said that he's leaning in favor.

Mr. Shaw said that he's in support. He said that his biggest concern is doing something that definitively removing that corner of the property for parking, and as long as four parking spaces are provided, whether it's in the two driveways and usage of the garage if it could be used, but is ok to support maintaining the garage as one parking area.

Mr. Minkarah said that he supports the application, a two-family in this area is a reasonable use, there are some single-family homes but a two-family is consistent, given the size of the house and that they are looking in making an investment in upgrading the home, so it's a net benefit, and is ok with the request as long as there are two parking spaces per residence,

as that is the requirement. He said he's ok with the stipulation of not parking at that corner. He said that with a rooming house, it is much more difficult to manage tandem parking, so if it's a two-family, it would upgrade the neighborhood, and would alleviate the problems that occur with parking.

Mr. Lionel said he's generally in support of the conversion to a two-family house, the neighboring lots are even smaller, and they're two-family buildings. He said that he is concerned by different representation on the application in terms of who's living there now. He said that he agrees that the situation would probably improve by making it a two-family, by having two sets of residents there, and agrees with the parking stipulation.

Mrs. MacKay said she agrees with fellow Board members. She agrees with the stipulation of some sort of barrier, whether it's a hedge, a tree or bush or fence, as parking is not allowed on the lawn or on a sidewalk.

MOTION by Mr. Boucher to approve the variance application on behalf of the applicant as advertised. Mr. Boucher stated that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, and the benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than the variance; the Board found that this is a mixed use, in terms of multi-family and single-family uses, and that this conversion into a two-family would fit right into the existing neighborhood.

Mr. Boucher said that the request is within the spirit and intent of the Ordinance.

Mr. Boucher stated that the request will not adversely affect the property values of surrounding parcels.

Mr. Boucher said that it is not contrary to the public interest, and substantial justice will be served.

Mr. Boucher said that for a special condition, in respect to the corner of White and Worcester, that the corner of the property, the lawn area, where there's been use of it for parking, the stipulation is that the owner in some way, place or construct

some sort of barrier, whether it's landscaping, or something to deter someone from parking on the area, there is to be no parking at the corner of this property.

SECONDED by Mr. Lionel.

Mr. Boucher said that he left the garage issue open, but would be happy to add it if the Board wishes.

Mr. Currier said that the testimony was that they can park two cars on the White Street side, if so, they'd be awfully small vehicles or motorcycles, but not two cars. He said that he sees the White Street driveway as one parking space if you're not on the sidewalk. He said that his other concern is that if there isn't a stipulation for the garage, it becomes storage area, or trash bins, and we're right back to where we were. He said he cannot support this if the garage isn't used for parking.

AMENDED MOTION by Mr. Boucher to add a second stipulation that the garage will be used for a parking space, be available for parking, in perpetuity, for the White Street driveway area.

SECONDED by Mr. Lionel

MOTION CARRIED UNANIMOUSLY 5-0 BY VERBAL ROLL CALL VOTE OF THE MEMBERS.

3. Lucille M. Muise (Owner) Vishva Corporation/Pranavkumar Patel (Applicant) 106 West Hollis Street (Sheet 86 Lot 33) requesting use variance form Land Use Code Section 190-15, Table 15-1 (#52) to convert a medical supply business into a convenience store. RC Zone, Ward 4.

Voting on this case:

Mariellen MacKay, Chair
Steve Lionel, Vice Chair
Jack Currier, Clerk
JP Boucher
Rob Shaw

Kate Patel, Gardner MA, and her father, Pranavkumar Patel, Gardner, MA. Mr. Patel said that the previous owner used it for a medical supply business, and he would like to use it for the

convenience store.

Ms. Patel said that the medical supply store has been closed for a while now, and it is the hope that the proposed use contributes to revitalization of the property, and to allow for a traditional commercial trade. She said that there is no reason to believe that this variance will harm the abutting property values or any of the surrounding properties in any way. She said that West Hollis Street is a very busy street, and Pierce Street is less busy, and the parking lot to access the convenience store is on Pierce Street, so there won't be a heavy flow of traffic on West Hollis Street. She said that the previous use had parking in this location, and the traffic from the previous use and the proposed use should be similar. She said that substantial justice will be done to the property owner, her parents, as they want to give back to the community, hire employees that are local, and would create job opportunities, and the property will be renovated, they have plans and estimates to do a \$27,000 renovation, including flooring, roofing, disposal, electric, sprinkler system, repainting, and the building will be brought up to Code. She said that the request will not diminish the property values of surrounding parcels, as it will be renovated and cleaned up. She said that the special conditions, leading to support of the hardship, the major concern is opening a commercial business on West Hollis Street, and since this is a convenience store, there shouldn't be customers visiting the store for more than five minutes, so people will be in and out. She said that they have five-six parking spots, but do not anticipate having that many customers at the store at any one time. She said that delivery and trash pickup trucks will be bi-weekly, and not monthly.

Mr. Currier asked to clarify the parking spaces, it looks like there are one or two in back of the building. He said that sometimes cars park on the side, but they'd be across the sidewalk if they're straight pulling in, or angled.

Mr. Patel pointed out the parking, they are angled spaces off of Pierce Street, there are six spaces there. He said that they are striped, but the paint is almost gone. He said that they'd still be angled spaces.

Mrs. MacKay asked if there will be employees, and where will they park, and will that encroach into the five or six existing

parking spaces.

Mr. Patel said that the employees would park in the back area of the building.

SPEAKING IN FAVOR:

Lucille Muise. Mrs. Muise's daughter spoke (name unintelligible), and said that her parents owned the previous business for 26 years for the medical supply business, and they are in full support.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

Jason Belcourt, 109 West Hollis Street, Nashua, NH. Mr. Belcourt said that he also submitted a letter, which the Board confirmed it has been received. He said that they indicated that there would be six spaces for customers, and doesn't see that happening. He said he's been at his house for twelve years, and the medical supply business was more of a delivery company, and they generated very little traffic. He said that Pierce Street is the first one-way street after St. Joseph's Hospital, so they get a lot of traffic, and the street is narrow, and many cars park on the street. He said he would not like to see someone turning left onto Pierce Street off of West Hollis Street by mistake.

SPEAKING IN FAVOR - REBUTTAL:

Mr. Patel showed his PC, with an image of one car parked on the back side of the building, and showed the six spaces right on the street, he said sometimes neighbors park their cars there as well. He said that he doesn't see any parking issues.

Ms. Patel said that number four of Mr. Belcourts letter, states that he's concerned with banging of metal doors. She said that they're not open very late, the hours of operation are closing at the latest 9:00 p.m. She said that people don't really come after a certain hour, past 7:00 p.m., business really goes down, and the door closes softly. She said that number three in the letter, for property values, she said that she doesn't agree that property values will go down. She said that there will not be any littering on their end, they'll place a trash can out the front door.

Mr. Currier asked if they operate similar convenience stores.

Ms. Patel said yes, in Massachusetts.

Mr. Patel said one store they've had for five years, and have another one in Gardner Mass.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS - REBUTTAL:

Mr. Belcourt said he has plenty of parking for his building and his tenants. He said that he sees this property all the time. He said that the parking there is very tight, and that is regular weather, not in snow removal weather.

Mr. Minkarah asked what the percentage of customers would be coming between pedestrians or vehicles.

Mr. Patel said that they get about 100-120 customers during the day, and about 30% are walkers.

END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:

Mr. Boucher asked what the requirement is for parking spaces.

Mr. Falk said the use would be a convenience store, which is a 1/200 parking ratio.

Mr. Minkarah said that there is 1,705 square feet.

Mr. Falk said that 9 spaces would be required. He said that this site was built prior to current zoning requirements. He said that they don't meet any of the setbacks, it's a legally nonconforming building.

Mr. Boucher said he remembers this business being busy, and remembers the angled parking clearly. He said that when it snows, the site is tighter, like any other site is. He said that barring a snowstorm, the only time he's been stuck on that street is when the trash trucks are there. He said that this is not a chain-type of convenience store, and it's not open 24 hours a day, so something like this fits in the neighborhood. He said that this was an existing commercial operation, and this use is similar to any other commercial use to what it's zoned for now. He said it won't be the same amount of traffic as a 7-Eleven, and should be a benefit for the neighborhood.

Mr. Shaw said that he is in support of the application for many of the same reasons as Mr. Boucher mentioned. He said that the usage will remain relatively consistent with other uses. He said that it appears to be at least two spaces in back of the building, and those would be for employee parking, and they should be able to satisfy the minimum parking requirements from the angled spaces. He said that they should have a pretty good percentage of customers via foot traffic, which is common in the downtown area.

Mr. Minkarah said that he is in support of the application, it's a commercial use, and the most recent use was there too. He said that he appreciates the abutters concerns, but any viable use of this property will have traffic and people coming and going, and there will be some level of activity, it is inevitable. He said that there are many other businesses in this neighborhood that are on street corners with limited or no parking except what is available on the street.

Ms. Booras said that she supports the application for the reasons already stated.

Mr. Lionel said that he is in support, there is a convenience store in his neighborhood, and it has adequate parking, but there are supply trucks always there, but that's unavoidable. He said that a convenience store would be a benefit to the neighborhood, and it would get a substantial amount of foot traffic, and the usage would be most likely more intense than the previous business, however many years it's been gone, but will support the application.

Mr. Currier said that he was initially hung up on the parking, and listening to the abutters concerns. He said that he appreciates Mr. Boucher's more experience in the area, and the fact that there's been angled parking there for decades. He said that it is a situation that has been there for decades, and puts him at ease. He said that it will be tight, but any viable business there will create an issue. He said that he is pleased that the applicant has experience in this business, and is in support of the application.

Mrs. MacKay said that she is in support as well, and remembers that years ago in downtown Nashua, there was all angled parking. She said that she lives close to a convenience store too, and

it's a busy little store, but you maneuver and you move and people appreciate the walkability of it.

MOTION by Mr. Shaw to approve the variance application on behalf of the applicant as advertised. Mr. Shaw stated that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, and the benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than the variance; the Board noted that this property had a long-standing commercial use, and this would just be a different commercial use than what was there previously.

Mr. Shaw said that the request is within the spirit and intent of the Ordinance.

Mr. Shaw stated that the request will not adversely affect the property values of surrounding parcels.

Mr. Shaw said that it is not contrary to the public interest, and substantial justice will be served.

SECONDED by Mr. Boucher.

MOTION CARRIED UNANIMOUSLY 5-0 BY VERBAL ROLL CALL VOTE OF THE MEMBERS.

MISCELLANEOUS:

REHEARING REQUESTS:

None.

REGIONAL IMPACT:

The Board did not see any cases of Regional Impact for the 2-8-22 meeting agenda.

MINUTES:

1-11-22:

MOTION by Mr. Shaw to approve the minutes as presented, waive the reading, and place the minutes in the permanent file.

SECONDED by Mr. Boucher.

MOTION CARRIED UNANIMOUSLY 5-0 PER VERBAL ROLL CALL OF THE VOTING MEMBERS.

ADJOURNMENT:

MOTION by Mr. Shaw to adjourn the meeting at 8:29 p.m.

SECONDED by Mr. Currier.

Submitted by: Mr. Currier, Clerk.

CF - Taped Hearing

DRAFT